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PP RUEHDE RUEHDIR
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ZNR UUUUU ZZH
P 010701Z MAY 08
FM AMEMBASSY ABU DHABI
TO RUEHC/SECSTATE WASHDC PRIORITY 0906
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY
INFO RUEHZM/GULF COOPERATION COUNCIL COLLECTIVE
RUEHYN/AMEMBASSY SANAA 1535
RHMFIUU/FBI WASHINGTON DC
RHMFIUU/DEPT OF JUSTICE WASHINGTON DC
RUEAIIA/CIA WASHINGTON DC

UNCLAS SECTION 01 OF 06 ABU DHABI 000543

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E.O. 12958: N/A

TAGS: [ECON](#) [EFIN](#) [KTFN](#) [PREL](#) [PTER](#) [AE](#) [QA](#) [YM](#)
SUBJECT: APRIL 2008 MENAFATF PLENARY SUMMARY

INTRODUCTION & SUMMARY

Sensitive but unclassified, please protect accordingly.

¶1. (SBU) The Middle East and North Africa Financial Action Task Force (MENAFATF) held a plenary session (MENAFATF VII), and working group meetings from April 6-9, 2008 at the Hilton Hotel in Abu Dhabi, United Arab Emirates (UAE). Treasury Deputy Assistant Secretary for Terrorist Financing and Financial Crimes Daniel Glaser headed the U.S. interagency delegation. The delegation included representatives of the Departments of the Treasury and State, and the Federal Bureau of Investigation.

¶2. (SBU) During this Plenary, the MENAFATF adopted the mutual evaluation reports (MERs) on the UAE, Qatar and Yemen; voted for Adel Al-Qulish to serve a second term as MENAFATF Executive Secretary from the period 2009 - 2012; discussed the budget for 2009; adopted the Report of the Designated Non-Financial Business & Professions Committee; discussed the Report of Politically Exposed Persons (PEPs) Committee; adopted the Mutual Evaluation Working Group Chairman's Report, the timeline of MENAFATF member countries, mutual evaluations, and the proposal for following up on the assessed member countries; discussed conferences, training seminars and workshops to include a conference on enhancing cooperation between FATF and FSRBs, a charities conference, a seminar on financial intelligence units (FIUs), and a variety of other member country proposals. (End introduction and summary.)

MUTUAL EVALUATION REPORTS

¶3. (SBU) Mutual Evaluation of the UAE:

¶A. (SBU) The Plenary adopted the IMF-drafted MER of the UAE. The evaluation was conducted using the FATF 2004 Methodology and summarizes the AML/CFT measures in place in the UAE at the time of the on-site visit (February 28- March 15, 2007). The UAE did not receive a very favorable assessment overall. The UAE received a rating of either compliant "C" or largely compliant "LC" on 20 out of 49 Recommendations and received ratings of either partially compliant "PC" or non-compliant "NC" on 29 of the Recommendations.

¶B. (SBU) During the Plenary discussions, the UAE argued for upgrades on:

i. (SBU) Recommendations 5 (NC): While the UAE acknowledged

that it has not taken action regarding customer due diligence (CDD) for Correspondent Banking, the country noted that it has drafted a law covering the issue. The UAE also argued that their circulars, which address both issues, have been appreciated and that on the whole, their performance has been good. The UAE also argued that it is the first country in the region to implement CDD measures. The IMF team disagreed and argued that the UAE's CDD measures are not obligatory for financial institutions and are therefore insufficient to meet FATF standards. The MENAFATF Plenary supported the assessment team and the UAE did not receive an upgrade on this recommendation.

ii. (SBU) Recommendation 6 (NC): While the UAE agreed that it hasn't defined PEPs or established a specific law concerning PEPs, it has received suspicious activity reports (SARs) on PEPs and are in the process of issuing a law regarding the matter. The UAE also argued that their laws are so general, that there is no need to identify PEPs in particular. The IMF team argued that the UAE has not issued any regulations or circulars regarding PEPs and therefore falls short of meeting the FATF standards. The MENAFATF Plenary supported the assessment team and the UAE did not receive an upgrade on this recommendation.

iii. (SBU) Recommendation 13 (NC): The UAE argued for an upgrade on Recommendation 13, stating that Article 23 of its CFT law provides the legal obligation on all financial institutions to file SARs regarding terrorist financing. The UAE supported this statement by stating that failure to report SARs on terrorist financing and other crimes will result in imprisonment. The IMF team noted that Article 23 of the UAE's CFT law only requires financial institutions to

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report suspicious activity based on knowledge of the act, not the suspicion. The threshold is too high and falls short of the FATF standard requiring financial institutions to report based on suspicion of an activity, not knowledge. The MENAFATF Plenary supported the assessment team and the UAE did not receive an upgrade on this recommendation.

iv. (SBU) Recommendation 16 (NC): The UAE argued that although the UAE's AML law does not explicitly cover professionals (lawyers, accountants, etc.), other commercial laws cover them with regards to AML/CFT controls. The IMF team noted that the FATF standard requires professionals to be fully covered under laws that require SAR reporting and general CFT procedures and controls, neither of which are imposed on professionals by UAE law. The MENAFATF Plenary supported the assessment team and the UAE did not receive an upgrade on this recommendation.

v. (SBU) Recommendation 19 (NC -> C): The UAE agreed with the IMF team's assessment in that the UAE does not have a law requiring cash transaction reporting. However, the UAE argued that it once considered such a system and concluded that such a system would not work in the jurisdiction. Instead of a cash reporting system, the UAE implemented a cash recording system and demonstrated the evidence of its consideration. The FATF standard only requires consideration of such a system and so the MENAFATF Plenary supported the UAE for an upgrade from NC to C on this recommendation.

vi. (SBU) Recommendation 32 (NC -> PC): The UAE argued that all authorities and agencies have comprehensive statistics. The IMF team replied that it has asked for statistics at the time of the on-site visit and were unable to find comprehensive statistics testing the efficiency of the UAE's AML/CFT systems and controls. The IMF team did agree, however, that some agencies and in particular the Dubai Police, provided meaningful statistics. The MENAFATF Plenary supported the UAE for an upgrade from NC to PC on this recommendation.

vii. (SBU) Special Recommendation VI (NC): This

recommendation was a particularly sensitive one to the UAE. The UAE argued that it is the only jurisdiction in the region to have created a system to license hawaladars (registered and controlled by the Central Bank of the UAE). The UAE argued for the benefits of the system by explaining a case in which the Central Bank received a SAR from a hawaladar, found elements of fraud and was able to consequently prosecute the criminals. While the IMF team was sympathetic to the UAE's efforts, it noted that there are significant shortfalls in UAE's system compared to the requirements of the FATF standard. The UAE has implemented a voluntary system with informal oversight and no legal underpinnings or abilities to sanction. The FATF standard requires more legal monitoring, oversight and sanctioning capabilities regarding hawala. The MENAFATF Plenary supported the assessment team and the UAE did not receive an upgrade on this recommendation.

viii. (SBU) Special Recommendation VII (NC): The UAE argued that banks do have systems that require sender and originator information for wire transfers. The IMF team, however, argued that there are no specific obligations imposed on financial institutions for customer verification procedures concerning wire transfers and that the 40,000 drh threshold is much higher than the USD 1,000 stipulated by the FATF standard. The MENAFATF Plenary supported the assessment team and the UAE did not receive an upgrade on this recommendation.

¶4. (SBU) Mutual Evaluation of Qatar:

¶A. (SBU) The Plenary discussed and adopted the IMF-drafted MER of Qatar. The evaluation was conducted using the FATF 2004 Methodology and summarizes the AML/CFT measures in place in Qatar at the time of the on-site visit (February 4-20, 2007). Qatar did not receive a favorable assessment overall. Qatar received a rating of either compliant or largely compliant on just 12 out of 49 Recommendations and received ratings of either partially compliant or non-compliant on 37 of the Recommendations.

¶B. (SBU) A large part of the Plenary discussion debated the difference between primary and secondary legislation and other enforceable means. The debate will continue at the June FATF Plenary during the discussion of the Qatar MER as well as in the Working Group on Evaluations and Implementation (WGEI).

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¶C. (SBU) During the Plenary discussions, Qatar argued for upgrades on:

i. (SBU) Recommendation 5 (NC): Qatar argued that its laws and authorities regarding anonymous accounts and customer identification measures are imposed by secondary legislation and not other enforceable means, as assessed by the team. Qatar's argument supporting this statement is that its AML law gives authority to the Central Bank of Qatar to pass provisions and regulations related to AML/CFT controls and procedures. FATF's standard for Recommendation 5 requires that regulations regarding anonymous accounts and customer identification measures be mandated by secondary legislation.

While the IMF team agreed that the Qatar Central Bank is fully authorized to create measures, supervise institutions and sanction them, the regulations are neither mandatory nor enforceable, making them other enforceable means rather than secondary legislation. The IMF team also noted that regardless of the regulations falling under secondary legislation or other enforceable means, there are significant shortcomings. The FATF representative explained that the methodology does define the distinction between primary/secondary legislation and other enforceable means.

ii. (SBU) Both the FATF and the United States recommended that for the time being, the procedure for obtaining the grades must follow the current methodology. The debate on secondary legislation versus other enforceable means endured

for a few hours. The conclusion agreed to by the Plenary included several factors: 1) a footnote would be placed at paragraph 301 noting that the interpretation of other enforceable means and secondary legislation is not clear and that the issue would be raised at the FATF June Plenary; 2) the issue would be raised and discussed at the FATF June Plenary during the discussion of the Qatar evaluation; 3) Qatar should raise the issue at the WGEI since it is currently examining this issue, and 4) The MENAFATF Plenary supported the assessment team and Qatar did not receive an upgrade on this recommendation or any that fall under the same debate (In addition to Recommendation 5, Recommendations 10 and 13, and Special Recommendation IV are also subject to the distinction between primary/secondary legislation and other enforceable means).

iii. (SBU) Recommendation 22 (PC): Qatar argued for a C grade for Recommendation 22, stating that the Qatar Central Bank obligates foreign branches and subsidiaries to adhere to Qatari laws. The IMF team argued that the Qatar Central Bank has indeed implemented everything, except for obligating institutions to apply the higher standard. The MENAFATF Plenary supported the assessment team and Qatar did not receive an upgrade on this recommendation.

iv. (SBU) Recommendation 17 (NC): Qatar argued that it does have a sanctions system within its AML regime, including the imposition of imprisonment or fines. The IMF team argued that there are no sanctions imposed for failure to report SARs and that there is an inadequate sanction regime with respect to tipping-off. The IMF team also noted that there is no sanctioning framework related to AML/CFT, in general. There are some sanctions in place but there are major shortcomings and no individual or entity has yet been sanctioned. The MENAFATF Plenary supported the assessment team and Qatar did not receive an upgrade on this recommendation.

v. (SBU) Recommendation 26 (PC -> LC): Qatar argued that as a member of Egmont, it must have a well-qualified FIU. The IMF team argued first, that Egmont membership does not mean an FIU complies with all the standards in Recommendation 26 and second, that there are major shortcomings with Qatar's in general. In particular, there are discrepancies in the law regarding informing the coordinator and not the FIU about suspicious activity, which poses vulnerabilities. At the time of the on-site visit, the FIU only had one analyst on staff and there was no guidance to financial institutions at the time. Additionally, there are obstacles to the FIU obtaining all the information it needs as requests are based on an urgent basis and can only be made to financial institutions and not other related companies. The MENAFATF Plenary supported Qatar for an upgrade from PC to LC on this recommendation.

15. (SBU) Mutual Evaluation of Yemen:

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1A. (SBU) The Plenary discussed and adopted the MENAFATF-drafted MER of Yemen. The evaluation was conducted using the FATF 2004 Methodology and summarizes the AML/CFT measures in place in Yemen at the time of the on-site visit (July 21 - August 1, 2007). Yemen received a negative assessment overall. Yemen received a rating of either compliant or largely compliant on just 4 out of 49 Recommendations and received ratings of either partially compliant or non-compliant on 43 of the Recommendations (two recommendations were graded NA). Yemen stated that it felt the grades on its MER were severe and unfair.

1B. (SBU) During the Plenary discussions, Yemen argued for upgrades on:

i. (SBU) Recommendation 8 (NC): Yemen disagreed with the MENAFATF team's assessment that Yemen imposes no obligation

to take special measures to the transactions carried out by using advanced technologies. Yemen argued that financial institutions are required to report suspicious activity and to prevent the misuse of new technologies through proper measures and controls. Yemen also noted that its financial institutions have software to identify individuals and keep records of their transactions. The MENAFATF team noted that there are too few controls, highlighted by the fact that transactions can be done over the phone and forms are sent over fax. The MENAFATF Plenary supported the assessment team and Yemen did not receive an upgrade on this recommendation.

ii. (SBU) Recommendation 32 (NC): Yemen claimed that it does create statistics and should receive an upgrade. The MENAFATF team noted that Yemen's statistics do not deal with a review of or the effectiveness of its AML/CFT system. The MENAFATF Plenary supported the assessment team and Yemen did not receive an upgrade on this recommendation.

iii. (SBU) Recommendation 19 (NC): Yemen argued that it established a committee regarding cash reporting and offered to submit documents that demonstrate its consideration of a cash reporting system. The MENAFATF team argued that the committee does not have anything to do with a cash reporting system or AML/CFT. The MENAFATF Plenary supported the assessment team and Yemen did not receive an upgrade on this recommendation.

iv. (SBU) Recommendation 25 (NC): Yemen claims that its AML law of 2003 provides guidelines in assisting financial institutions in applying AML/CFT controls. The MENAFATF team explained that no forms, rules or procedures were given to the team, though they were asked for repeatedly. The MENAFATF Plenary supported the assessment team and Yemen did not receive an upgrade on this recommendation.

v. (SBU) Special Recommendation I (NC): Yemen argued that it has implemented UNSCR 1267 and circulates the 1267 lists. The MENAFATF team argued that regardless, Yemen is not a party to the Terrorist Financing Convention and has significant shortcomings in implementing the UNSCRs. The MENAFATF Plenary supported the assessment team and Yemen did not receive an upgrade on this recommendation.

MISCELLANEOUS ITEMS

¶6. (SBU) Budget for 2009: The budget was agreed to, although several member countries expressed concern in the raising of member dues.

¶7. (SBU) Report of the Designated Non-Financial Businesses & Professions (DNFPBs) Committee: The Report of the Working Group on DNFBPs was accepted by the Plenary.

¶8. (SBU) Report of the Politically Exposed Persons (PEPs) Committee: The Report of the Working Group on PEPs was not accepted by the Plenary. Members felt they did not have the chance to participate in the working group or read the report, and would like to prepare comments and raise the issue again at the next Plenary.

¶9. (SBU) Technical Assistance & Typologies Working Group: The Working Group Chairman's Report and the Technical Assistance Report were accepted by the Plenary. During this discussion, the United States asked whether it would also be able to join the MENAFATF Technical Assistance & Typologies Working Group (TATWG), as it had not in the past. The Plenary agreed that

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the United States could attend the MENAFATF TATWG.

¶10. (SBU) Mutual Evaluation Working Group: The Plenary adopted the Working Group Chairman's report, the timeline or schedule for member countries, MERs and the schedule for

following up on member countries that have previously been assessed. Jordan, Egypt, and Lebanon are scheduled to undergo a mutual evaluation this year and Bahrain, Mauritania and Syria are scheduled for a follow-up assessment this year.

¶11. (SBU) First Annual Conference of Licensing & Supervisory Authorities on Charities/NPOs: It was agreed that Bahrain would be working jointly with the MENAFATF to launch the first regional charities conference as part of a series. This conference was scheduled to take place May 15-16, 2008. Through subsequent discussion between the United States and Bahrain, it was agreed that more time was necessary in order to plan a successful conference. Bahrain now plans to host the conference in September 2008.

¶12. (SBU) Application of Libya for MENAFATF membership: The Plenary was unable to vote on Libya's application for membership on procedural grounds, as the application was submitted and distributed late. The issue will be raised and voted on at the next Plenary.

¶13. (SBU) Approaching and Encouraging Djibouti and Comoros to apply for MENAFATF membership: It was decided that although new members would be welcome, the MENAFATF members did not want to solicit applications from countries outside the region.

¶14. (SBU) UAE proposal to host a joint Plenary with the FATF in 2009: Most member countries supported the UAE's proposal to host the FATF Plenary and working groups in 2009. The United States expressed support for the proposal, though noted that other FSRBs were also seeking to host joint plenaries, so 2009 might not be possible. The United States advised the MENAFATF to contact the FATF Secretariat promptly to discuss the proposal.

¶15. (SBU) Organization of Joint Workshops between FATF and MENAFATF for training assessors: There was general support among the members for joint workshops between FATF and MENAFATF for training assessors. Syria suggested this proposal be turned to the typologies working group.

¶16. (SBU) Joint assessment reports between MENAFATF and APG and conducting joint workshops: There was general support for this proposal.

¶17. (SBU) Coordination Committee with donor agencies to determine the technical assistance needs of member states: There was a great amount of support for this initiative, in which a MENAFATF Committee would work with agencies, and the UN Office on Drugs and Crime (UNODC), in particular, to identify the technical assistance and training needs of member states. Member states were encouraged to approach the Secretariat with their specific needs.

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¶18. (SBU) MENAFATF Solidarity Fund to support training programs: There was general support among the members for a solidarity fund to support training programs in jurisdictions that do not already receive it. However, before agreeing to the idea, the members requested a draft proposal and agreed to raise the issue and vote on it in the next Plenary.

¶19. (SBU) Qatar proposal to study the Arab Strategy Project on AML/CFT: All members supported Qatar's proposal to study the Arab Strategy Project on AML/CFT, which would be prepared by the General Secretariat of the Council of Arab Interior Ministers.

¶20. (SBU) Lebanon proposal for the MENAFATF PSD: Lebanon proposed that the MENAFATF launch a private sector dialogue, in the form of an additional day attached to each or every other Plenary to discuss challenges in implementing AML/CFT controls. The proposal would build on the current US-Middle East and North Africa Private Sector Dialogue (US-MENA PSD). Most MENAFATF members were supportive of the concept. However, several members expressed concern that the

underlying paper in support of the proposal had not yet been circulated, so it was agreed to defer the discussion until the next Plenary. Saudi Arabia, in particular, expressed concern that the initiative would involve direct foreign government outreach to Saudi banks. Such a concern

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represents a misunderstanding of the PSD concept that will hopefully be resolved once the concept paper is circulated by the MENAFATF Secretariat.

¶21. (SBU) The next MENAFATF Plenary meeting will be held the week of November 9-13, 2008 in Abu Dhabi, UAE.

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